

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Willie James Crump, Lamont McGee, and
Tierre Caldwell,

Civ. No. 16-1838 (ADM/BRT)

Plaintiffs,

v.

REPORT AND RECOMMENDATION

Minnesota Department of Corrections;
Tom Roy, Commissioner, Terry Burns,
I.C.W.C.; Brandon Thidauox, Crew
Leader,

Defendants.

Plaintiffs Crump, McGee, and Caldwell commenced this action by filing a Complaint under 42 U.S.C. § 1983. (Doc. No. 1.) Plaintiffs McGee and Caldwell did not file applications to proceed *in forma pauperis* (“IFP”) or pay the required filing fee. Plaintiff Crump filed an application seeking leave to proceed *in forma pauperis* but it was not filed on the court-approved form and therefore did not include the required certified copy of his prison trust account information. (See Doc. No. 2.) In an Order dated July 22, 2016, this Court required McGee and Caldwell to either pay the filing fee or file an IFP application and ordered Crump to file his IFP application on the court-approved form with the prison trust account information. (See Doc. No. 4.) Plaintiffs were given until August 11, 2016, to pay or file the proper IFP application, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute.

(*Id.*); *see* Fed. R. Civ. P. 41(b). Plaintiffs were also ordered to file an amended complaint by that date. (Doc. No. 4.)

The deadline has now passed, and none of the Plaintiffs have paid the required filing fee or filed a proper IFP application and they have not filed an amended complaint. Accordingly, this Court now recommends, in accordance with its prior Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (*per curiam*) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: August 24, 2016

s/ Becky R. Thorson
BECKY R. THORSON
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).

Under Advisement Date: This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.